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Could rescheduling make marijuana investments viable?
By Rob Burgess
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A monumental shift in federal drug policy could be around the corner, one that could reshape how investors and financial advisors engage with the cannabis industry.

Last week, the Washington Post reported that President Donald Trump is considering an executive order that would direct federal agencies to pursue reclassification of marijuana from a Schedule I to a Schedule III substance.

Marijuana, along with other substances like heroin, psilocybin and LSD, has been classified as a Schedule I drug since the passage of the Controlled Substances Act (CSA) of 1970, defined as having no medical uses and "a high potential for abuse."

By contrast, Schedule III drugs, which include ketamine, testosterone and anabolic steroids, have a "moderate to low potential for physical and psychological dependence."

Despite this long-held federal designation, in recent years, 40 states have legalized medical marijuana and 24 have legalized recreational marijuana. This state-level shift has produced a burgeoning marijuana industry, but the federal Schedule I designation has been a major roadblock to broader legitimacy.

What would reclassification of marijuana as a Schedule III substance mean for advisors and investors? For one thing, it could go a long way toward allowing advisors to include marijuana-associated asset classes in client portfolios. But experts say even if Trump does direct agencies to reclassify marijuana, it would be far from the industry's final step into the mainstream.

Tax implications
One of the most immediate implications of this change would be tax-related.

Under the U.S. tax code, businesses that "traffic" Schedule I or II substances are prohibited from deducting ordinary business expenses from their taxable income. Because marijuana is classified as Schedule I, most cannabis operators are subject to this restriction.

Were it to be rescheduled to Schedule III, this part of the tax code would no longer apply to the industry. That shift would significantly improve profitability over time, said Ryan Hunter, chief revenue officer at cannabis engineering company Spherex in Aurora, Colorado.

"We also expect to see additional sources of capital come forward to partner with the industry," he said. "As a result, we expect our cost of capital to decline and our access to working capital to increase — both elements leading to greater working capital efficiency."

Anthony Coniglio is CEO at cannabis real estate investment trust NewLake Capital in New Canaan, Connecticut. The firm has a portfolio of 32 cultivation facilities and dispensaries across 12 states. Tenants include Trulieve, Curaleaf and Cresco — three of the largest operators in the cannabis sector.

Coniglio said rescheduling marijuana would alleviate some of the most punitive tax burdens facing operators, potentially improving cash flows and paving the way for more normalized banking and capital markets activity. However, it would not be a panacea, he said.

"Many regulatory, legal and compliance uncertainties would remain," he said. "Still, it would mark meaningful progress in moving toward a more stable and investable environment for both operators and capital providers."

Could more related stocks now be listed?

Currently, the NYSE and NASDAQ only list a handful of cannabis-related companies. For the most part, shares of marijuana operators are instead traded over the counter, meaning they are bought and sold via broker-dealers rather than on major exchanges.

Michael Martin, vice president of market strategy for Chicago-based online brokerage TradingBlock, said he was an investor in the AdvisorShares Pure US Cannabis ETF (MSOS) for years, but ultimately exited in 2023, citing uncertainty surrounding the space.

"It's a good example of how regulatory risk can overwhelm long-term fundamentals, even when the underlying demand story remains intact," he said.

Patrick Yaghoobians, founder of Noor Financial Services in Sunland-Tujunga, California, has also invested in the MSOS ETF. This sector comes with a high level of regulatory risk, and has been more susceptible to high volatility, he said, though that could be depressed if rescheduling does happen.

"I have continued to hold my positions, and actually added to them despite the 90% losses I had at one point," he said.

If marijuana is rescheduled, Martin said it could make listing on exchanges like the NYSE and NASDAQ more plausible but far from guaranteed.

"Rescheduling would dramatically reduce legal and compliance risk, so over time listings may indeed happen," he said. "Though it likely won't be overnight."

Rescheduling doesn't go far enough, experts say

Even if marijuana is reclassified as Schedule III, it would remain a federally controlled substance — that is, illegal without a doctor's prescription.

That distinction matters for the business of cannabis. Multinational banks and other financial institutions bound by international agreements and federal compliance regulations may still be unable to work with cannabis companies, Hunter said.

"Until cannabis is finally, and properly, descheduled completely, the cannabis industry will still suffer financial disadvantages relative to companies in similar industries like alcohol and tobacco," he said.

Reform could also disrupt existing markets. Brandon Dorsky, an intellectual property attorney in Long Beach, California, and CEO of marijuana edibles brand Fruit Slabs, said that a total descheduling would be less destabilizing than a downgrade to Schedule III.

"If there is a move to Schedule III, or another schedule, there are still requirements for manufacture, distribution and sale that the majority of the existing regulated marijuana infrastructure is not presently designed to accommodate," he said, "and it could eliminate the recreational market, which could result in distress for consumers, patients and operators."